

ASSEMBLY BILL

No. 439

Introduced by Assembly Member Miller

February 24, 2009

An act to amend Section 671.5 of the Streets and Highways Code, relating to highways.

LEGISLATIVE COUNSEL'S DIGEST

AB 439, as introduced, Miller. Encroachment permits.

Under existing law, the Department of Transportation may issue permits authorizing encroachments, as defined, on highways. Existing law requires the department to either approve or deny an application for an encroachment permit within 60 days of receiving a completed application. The department's failure to notify an applicant within that 60-day period that the permit is denied is deemed to constitute approval of the permit.

This bill would require the department to approve or deny an encroachment permit within 45 days of receiving a completed application.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 671.5 of the Streets and Highways Code
- 2 is amended to read:
- 3 671.5. (a) The department shall either approve or deny an
- 4 application from an applicant for an encroachment permit within
- 5 ~~60~~ 45 days of receiving a completed application, as determined

1 by the department. An application for an encroachment permit is
2 complete when all other statutory requirements, including the
3 California Environmental Quality Act (Division 13 (commencing
4 with Section 21000) of the Public Resources Code), have been
5 complied with. The department's failure to notify the applicant
6 within that ~~60-day~~ *45-day* period that the permit is denied shall be
7 deemed to constitute approval of the permit. Thereafter, upon
8 notifying the department, the applicant may act in accordance with
9 its permit application, as if the permit had been approved.

10 (b) If the department denies an application for an encroachment
11 permit, it shall, at the time of notifying the applicant of the denial,
12 furnish to the applicant a detailed explanation of the reason for the
13 denial.

14 (c) The department shall adopt regulations prescribing
15 procedures for an applicant to appeal to the director for a final
16 determination of the department's denial of an application. The
17 appeal shall be made in writing to the director. There shall be a
18 final written determination by the director within 60 calendar days
19 after receipt of the applicant's written appeal. The adopted
20 regulations shall require the appellant to pay to the department a
21 fee of not more than 50 percent of the estimated administrative
22 cost to the department of conducting the appeal.

23 (d) Nothing in this section precludes an applicant and the
24 department from mutually agreeing to an extension of any time
25 limit provided by this section.